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Setti D. Warren
Mayor


James Freas
Acting Director

**ZONING BOARD OF APPEALS COMPREHENSIVE PERMIT PUBLIC HEARING
MEMORANDUM**

DATE: January 22, 2016

MEETING DATE: January 26, 2016

TO: Zoning Board of Appeals

FROM: James Freas, Acting Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning 

COPIED: Mayor Setti D. Warren
Dan Violi, Chair, Newton Housing Partnership
Councilors from Ward 5

SUBJECT: **Application #1-16, Waban AMA Realty Ventures LLC, applying to the Zoning Board of Appeals** for a comprehensive permit pursuant to G.L. c. 40B, §20-23, as amended, to construct 48 rental units including 38 market rate units and 10 affordable units to be called "1521 Beacon Street" on land located at 1521 Beacon Street in Newton, MA, Ward 5, Section 53, Block 34, Lot 04, containing approximately 70,335 square feet of land area in a Single Residence 2 (SR2), Zoning District.

The purpose of this memorandum is to provide the Zoning Board of Appeals, the City Council and the public with technical information and planning analysis which may be useful in the comprehensive permit decision-making process. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearings that the Zoning Board of Appeals will want to consider in its discussion at a subsequent public hearing.



**1521 Beacon Street (view
from Short Street)**

EXECUTIVE SUMMARY

The Applicant, Waban AMA Realty Ventures LLC, is requesting a comprehensive permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, to redevelop an approximately 70,335 square foot parcel improved with a building formerly used as a church, to create 48 rental units. The site is considered a through lot and has frontage on Short Street and Karen Road in Waban, with vehicular access from Karen Road. The site is located in a single-family neighborhood and is surrounded by single-family residences. The proposed project consists of a 5-story multi-family structure (located in approximately the same location as the existing church) containing 36 units, and 12 townhomes fronting Karen Road. Vehicular access would remain via Karen Road. Although there are some inconsistencies in the application, the Applicant has stated that they are proposing 10 deed restricted units that will be available to households earning up to 50% of Area Median Income (AMI).

In December 2014 and January 2015 Newton asserted that it had met the 1.5% general land area minimum pursuant to Chapter 40B. The Housing Appeals Committee (HAC) concluded that Newton had not achieved the 1.5% general land area minimum however, the Zoning Board of Appeals is appealing this decision and the issue is currently pending before the Housing Appeals Committee. Although Newton believes we have met the general land area minimum, we continue to welcome additional housing opportunities that are the right fit for the right place. Newton has a longstanding commitment to the creation of affordable and equitable housing opportunities in our City and recently announced a goal to add at least 800 affordable units by 2021, so that 10 percent of our housing stock is affordable. To ensure such projects represent a good fit for the City and the respective neighborhood in which they are looking to develop in, the City strongly encourages careful siting, design, and project programming. Overall, Newton supports increasing the diversity and supply of housing, especially affordable housing, and through the *Newton Comprehensive Plan*, adopted in 2007, has a goal of encouraging “Residential development that is well located in relationship to transportation, schools, commercial services, large employers, and existing patterns of residential type and character.”¹ Additionally, the objectives of the City’s *Consolidated Plan*, including fair housing, have been considered in this review.

Considering the site’s proximity to transportation and services, the Department believes that the site is an appropriate location for multi-family use and overall the Planning Department is very supportive of the concept of multi-family housing at the former St. Philip Neri Church site. However, the Department has several concerns about the project, which have to do with the massing of the proposed structures as they relate to the surrounding neighborhood context. These comments were expressed in the City’s letter to MassHousing during the Project Eligibility comment period (**Attachment A**). Although the Planning Department acknowledges that the height of the townhouses has been reduced from 47 feet in height to 32 feet, we are disappointed that no other changes have been made in response to our concerns regarding the

¹ *Newton Comprehensive Plan*, 2007. Page 5-14

massing of the multifamily structure, the setbacks of structures, and the lack of open space.

The Planning Department believes that the site plan would benefit from additional open space left in its current natural state, which would help to conserve the character of this prominent lot and help mitigate the impacts of this project on the site and neighborhood. A reduction in the footprint and height of the multi-family structure to be more in keeping with the massing of the existing church on site would help to decrease the amount of impervious surface proposed and maintain more of a buffer with adjacent residences. During the development review and Project Eligibility process the Planning Department encouraged the Applicant to consider adapting the existing church structure into residential units, which would be welcomed by the neighborhood as preserving the site's integrity, and would lead to a project with an appropriate scale and density. The Applicant has stated that the existing church structure is not easily adaptable to a residential use and that they could not fit the number of units desired in the existing structure.

Finally, the Planning Department is concerned that some level of traffic mitigation is needed at three separate intersections that this project will effect. These intersections include 1) Beacon and Chestnut Street, 2) Montclair Road, Short Street and Beacon Street, and 3) Oak Vale and Chestnut Street. Chestnut Street runs north-south and experiences significant queues during peak hours. Signal upgrades and turn lanes at the intersections at Beacon Street and Commonwealth Avenue are needed. In addition, sight lines are limited at the intersection of Montclair Road Short Street and Beacon Street, as well as at Oak Vale and Chestnut Street, and the addition of vehicles at these intersections may create safety concerns for vehicles and pedestrians that must be mitigated before development can occur. The developer has also suggested closing a portion of Short Street and increasing the open space in the neighborhood. The Planning Department recommends the ZBA authorize a peer review of the submitted Draft Traffic Impact and Access Study and request further evaluation and comments on the concept of the closure of Short Street and improvements at proximate intersections.

Although the Planning Department has concerns with the proposed massing, density, and lack of open space given the existing neighborhoods single-family context, we acknowledge that the Applicant's proposal adds units of permanently restricted affordable housing at the 50% AMI threshold, which is a particular need in Newton, and the Planning Department appreciates the diversity this project brings to the City's affordable housing stock. We are however, concerned that the rest of the units are being marketed as "luxury rentals," unaffordable to many seniors and working families. The City would benefit from additional units restricted at 80-150% of AMI, rather than such a stratified project.

I. ISSUES FOR CONSIDERATION

Pursuant to Massachusetts General Laws, Chapter 40B, the comprehensive permit process is designed to enable the development of affordable housing at the local level under flexible rules and streamlined administrative review procedures. Based on the proposed project, the ZBA should consider whether the approvals and waivers requested by the Applicant are reasonable. The Chief Zoning Code Official has completed a memorandum which outlines the required relief that the Zoning Board of Appeals must grant in order to approve the project as proposed (**Attachment B**).

Other regulations required by the laws of the Commonwealth of Massachusetts still apply, and it will be the responsibility of the Applicant to ensure compliance with those applicable regulations.

II. ANALYSIS AND REVIEW CRITERIA

A. General Law c. 40B, §§ 20-23– Assessment of Housing Needs

G.L. c.40B, §§20-23 establishes three criteria by which the need for affordable housing in a particular community is measured. These three criteria are: 1) more than 10% of housing units in a community are utilized for affordable housing; 2) 1.5% or more of the land area zoned for residential, commercial or industrial use (excluding statutory exempt land) contains affordable housing; and 3) the land area developed for affordable housing in any one calendar year does not exceed 3/10 of one percent of total land area (as determined by #2 above) or 10 acres, whichever is larger.

The State-mandated goal for affordable housing is 10% of a community's housing stock. The most recent DHCD Subsidized Housing Inventory (SHI) list (as of December 5, 2014) states that Newton has a total of 2,438 affordable housing units, or 7.5% of the total year-round housing stock (32,346 units according to the 2010 U.S. Census), and does not yet meet the first of the three above-mentioned criteria. Since December 2014 the City has added or permitted 148 units of affordable housing that should be eligible to be added to the SHI. As proposed, this project would increase the supply of deed-restricted, affordable units in the City by 10 units, and because this project is proposed as a rental project, all 48 (proposed) units would be eligible to be included on the SHI, putting Newton at approximately 8.0%.

Recent Projects Eligible for Inclusion on the SHI

Address / Project Name	Units Eligible for SHI
152 Adams Street*	1 unit
Riverside Station***	44 units
429 Cherry Street****	3 units
75 & 83 Court Street***	9 units
12 and 18-20 Curve Street***	7 units
Kessler Woods @ Lagrange Street**	13 units
54 Taft Avenue***	2 units
47 Goddard Street***	1 units
28 Austin Street***	68 units
TOTAL	148 Units

- * Recently completed
- ** Under construction
- *** Permit granted but not under construction
- **** Under appeal

In 2015, during its review of the Dinosaur Rowe, LLC and Marcus Lang, LLC comprehensive permit applications, the Zoning Board of Appeals found and determined that 1.5% of Newton's land area was dedicated to subsidized housing. However, the applicants appealed the decision to the HAC. The HAC issued an interlocutory order ruling that Newton does not meet the 1.5% general land area minimum threshold. Nevertheless, the Board has reserved its right to appeal the HAC's determination in both the Rowe Street and Goddard Street (Marcus Lang) decisions.

The calculation of the land area minimum is based on a formula that divides the total land area of affordable housing sites by the total amount of developable land.

$$\frac{\text{Numerator}}{\text{Denominator}} = \frac{(\text{Affordable housing sites})}{(\text{Land zoned for commercial industrial or residential use})} = 1.5\% \text{ or } >$$

In reviewing Newton's calculation, the HAC accepted the City's denominator with the exception of the exclusion of the three private golf courses in Newton that total 539.8 acres. The City excluded the golf courses because the owners have opted to classify the land as open space and recreational land for tax purposes which gives the City the right of first refusal to purchase them if they are offered for sale.

Additionally, the owner has to pay five years of back taxes if it wishes to change the use. In spite of these restrictions, the HAC excluded the figure from the denominator.

The City calculated the denominator as 6,635.07 acres but the HAC used 7,174.9 acres (the difference being the golf course land).

The HAC accepted the City's numerator with a number of exceptions as follows:

- The HAC did not agree with the amount of land the City counted for the YMCA and Arborpoint properties and reduced the land area counted by 8.4 acres.
- The HAC ruled that Riverside was not eligible to be counted when the Goddard Street developer appealed the Board's invocation of the 1.5% safe harbor. This development however, is eligible as the special permit was exercised in February 2015 and the City believes that this project counts towards the 1.5% with a land area of 3.9 acres.
- The HAC ruled that Kessler Woods' permit had lapsed. This development is currently under construction and the City believes that this project counts towards the 1.5% with a land area of 2.2 acres.
- Finally there was a discrepancy in the land area HAC and the City used to calculate the land area of the "confidential" units that are typically group homes whose identity is kept confidential, and the HAC subtracted 2.0 acres.

In the most recent HAC appeal the City used 107.47 acres as the numerator and HAC used 90.9 as the numerator. The City calculated that the total land area containing affordable housing was 1.62%, if golf courses are included, and 1.5% even if golf courses are not included. HAC calculated it at 1.27%.

Since the HAC decision, the City has approved affordable housing projects at 12-20 Curve Street, 54 Taft Avenue, 47 Goddard Street, and 28 Austin Street totaling 2.75 acres. However, one property has fallen off the SHI with a land area of .02 acres. The City continues to believe that Riverside has exercised its special permit and that the Kessler Woods project should be counted. If we add those six projects in to HAC's numerator and subtract the property that fell off the inventory the numerator would be:

HAC's numerator:	90.9	
Plus:	2.75	(Recently approved projects)
Plus:	3.9	(The Station at Riverside)
Plus:	2.2	(Kessler Woods)
Minus:	.02	(Property removed from SHI)
Numerator:	99.79 acres	

HAC used a denominator of 7,174.9 and assuming HAC's numerator would now be 99.79, HAC would calculate the current amount of land used for affordable housing sites in Newton as 1.39%, or less than 1.5%.

However, it should be noted that how these numbers are calculated is somewhat arbitrary, confusing and lacking a rational methodology and the City of Newton does not agree with all of HAC's decisions. Even the HAC has acknowledged that the standard for calculating whether the City has met the 1.5% land area minimum is confusing. In its calculation of the land area minimum, the City followed the process as required by the regulations. However, the HAC in its review of the City's analysis extrapolated from case law and imposed findings not particularly relevant to the land area minimum issue and clearly not contained in the statute or the regulations. As mentioned earlier, the Board has reserved its right to appeal the HAC's determination. The most recent decision is on appeal before the HAC and therefore the issue will be further reviewed and a definitive ruling providing clarity as to how the land area minimum should be calculated will, hopefully, be issued.

If the Zoning Board of Appeals continues to accept the City's methodology the current numerator would be:

City's numerator:	107.47	
Plus:	2.75	(Recently approved projects)
Minus:	.02	(Property removed from the SHI)
Equals:	110.2	

With a denominator of 6,635.07, and a numerator of 110.2, the City has 1.66% of its land area dedicated to affordable housing.

Even excluding the golf courses as the HAC did, with a denominator of 7,174.9, and a numerator of 110.2, the City has 1.53 % of the land area dedicated to affordable housing.

Bearing all of this in mind, the ZBA will have to decide whether or not to invoke the 1.5% land area minimum or decide to proceed with the project as proposed until the issue is clarified by HAC.

The proposal would not result in development of affordable housing on sites that constitute more than 3/10 of one percent of the total land area in one year, and thus does not meet the third criteria.

B. The Health and Safety of the Residents of the Proposed Housing and the Current Residents of the City

a. Structural soundness of the proposed buildings

The Planning Department has no concerns with the structural soundness of the proposed building at this time. Prior to the issuance of any building permits, the Applicant will be required to file final construction drawings and

details, for review and approval by the Fire Department, Inspectional Services Department and the Engineering Division of Public Works.

b. Adequacy of sewage disposal

The Associate City Engineer has reviewed this project and his review memorandum is attached (**Attachment C**). Should the Board choose to approve this project, final plans will need to be reviewed and approved by the Engineering Division of Public Works prior to the issuance of any building permits.

The Associate City Engineer notes that the project site lies within Area A of the sanitary sewer basin which has ongoing infiltration and inflow problems. To help the City offset these flows the Utilities Division of Public Works is requiring a one-time contribution from the Applicant to be applied towards the removal of Infiltration and Inflow at a rate of 8:1, which equates to a payment of \$643,104 based on 87 bedrooms.

The Engineering Division Memorandum also notes that the Applicant will be required to update the current sidewalks and curbing in compliance with the ADA and Architectural Access Board and the City of Newton Construction Standards, and that the redevelopment of this site would be the ideal opportunity to remove the overhead power and telecommunications system and underground the respective utilities along the entire frontage. Snow storage should also be identified on the plan.

c. Adequacy of handling water runoff

Should the Board choose to approve this project the Applicant will need to accommodate all runoff on-site for a 100-year storm event, and the Engineering Division of Public Works will review plans for compliance prior to the issuance of any building permits. There do not appear to be any constraints that would hinder the Applicant from being able to meet this performance standard.

d. Adequacy of fire protection

The project has been reviewed by the City's Fire Department and appears to meet the requirements for access and water. The buildings will be equipped with a sprinkler system. A fire hydrant will need to be located no more than 100 feet from the Fire Department's connection on the multi-family building per code, and the line should be fed from the Beacon Street water main as the mains on Montclair and Karen Roads won't provide sufficient water if a large event were to occur on the property.

e. Adequacy of handling traffic generated by the project on adjacent streets

The Applicant submitted a Draft Traffic Impact and Access Study. The Planning

Department recommends the Board authorize a peer review of this study and an evaluation of proposed mitigation.

- f. Proximity of the site to industrial activities which might affect the health of the proposed residents

The site is not proximate to any known industrial activities that may affect the health of future residents.

C. Site and Building Design

- a. Height, bulk and placement of the proposed buildings, accessory structures and improvements

The development proposal includes the demolition of the existing church on site and the construction of a 5-story multi-family building containing 36 units in approximately the same place as the existing church, and the construction of 12 2.5-story townhouse units in three groups on Karen Road. The Planning Department is supportive of the concept of the two typologies of structures on this lot so that there is a contiguous streetscape along and in keeping with both Short Street and Karen Road.

The multi-family structure has been thoughtfully designed to reflect the style of larger single family houses in the area with detailing similar to the arts and crafts style such as horizontal detailing, wide gables, and extended roof overhangs. However, the building is sited with the front setback aligned with the setbacks of the adjacent houses along Short Street (facing Beacon Street) and has therefore been moved closer to Short Street than the existing church. Although the western setbacks are being increased by approximately 10 feet (from 11.4 to 23.8 feet) the Planning Department is concerned that because of the height of this building, the building will appear to dwarf its single family residential abutters to the west and east. The Planning Department notes this structure is approximately 51,000 square feet where the existing church is approximately 13,250 square feet. The existing structure is approximately 38 feet in height and the proposed structure is 56 feet tall. Most of the immediate surrounding residences are between 1- and 2.5-stories and do not exceed 36 feet in height (many are considerably lower). Although the Planning Department appreciated the attempt to reduce the mass of this structure through architectural detailing and the stepped-down wings, reducing the height, increasing the setbacks, and scaling back the footprint would help the building fit better between the adjacent residences.

The 12 proposed townhomes total approximately 33,000 and are approximately 32 feet in height to the peak. Each unit is three bedrooms and three baths and has a two car garage, entry and mechanical/storage room on the ground floor. The second floor has a larger footprint than the floor below as the rear of these units is cantilevered and extends over exterior parking

stalls. Kitchen, dining and living, and a master suite are located on this floor, with an overall length of 59 feet. Two additional bedrooms are located on the third floor. Deed restricted townhomes are similarly laid out but are three feet narrower and contain one garage stall on the ground level and one exterior stall at grade under the second floor.

The Planning Department notes there is an inconsistency in the number of stories represented in the depictions of the height calculations on the Proposed Building and Utility Locations Plan of the proposed buildings. The Applicant should confirm that the error is in the number of stories represented on this plan and not in the calculation of the height of the structures.

Since the filing of the application for Project Eligibility the Applicant has reduced the height of the townhouses by one story. However, the Planning Department remains concerned with the front and east side setback of these units. The front setback is as little as 9.8 feet where 30 feet is required, and the east side setback is only 10 feet. The Newton Zoning Ordinance does not allow for attached or multi-family structures in the single residence zone but in the Multi-Residence zone where attached dwellings are allowed, all setbacks are required to be 25 feet. The Planning Department recommends the Applicant shrink the size of these units to increase the front and east side setback. Although not particularly visible from the street, the length of these units feels excessive and will appear quite massive from abutting properties. Additional detailing should be considered for end units as viewed from abutting properties.

The bedroom mix is currently proposed as follows:

Residential Unit Breakdown

Unit Type	Number of Units	Percentage of Units
Studio	7	15%
One-Bedroom	14	29%
Two-Bedroom	15	31%
Three-Bedroom townhouses	12	25%
Total	48	100%

The average size for the unit types are as follows: studios - 574 square feet; One-bedrooms – 703 square feet; two bedrooms – 997 square feet. Townhomes are approximately 2,854 square feet with the affordable units at

approximately 2,426 square feet. The Planning Department believes that the units in the multi-family structure are well sized but that both the market rate and affordable townhomes are quite large, and recommends a reduction in the size of these units. The applicant has not indicated on plans which units in the multi-family structure are affordable and how many of each bedroom type are affordable, although this is clear with the townhouse units. This should be clarified so that the Planning Department can insure the correct distribution of affordable units and unit sizes. The applicant should also clarify how many units will be universally accessible.

The following table illustrates how the project compares with the dimensional requirements.

SR2 Zone	Required	Proposed
Lot Size (lots created after 12/7/53)	15,000 square feet	70,335 square feet
Frontage	100 feet	207 feet (Karen Rd.)
Lot area per unit	15,000	1,465 square feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	30 feet 15 feet 15 feet	9.8 feet (Karen Road) 10 feet (townhouses) NA
Building Height	36	56.14 feet (MF building)
Max Number of Stories	2.5	4-5
FAR	.33	1.19
Max Lot Coverage	20%	41%
Min. Open Space	65%	35%

No accessory structures or other improvements to the subject property appear to be proposed. The Applicant should note any mechanical equipment not shown on the site plan at the public hearing.

b. Physical characteristics of the surrounding land

The surrounding neighborhood can be characterized as residential in nature, and largely consists of a mix of 1- 2½-story single-family homes. There is an actively used City playground one block from the site (Lincoln Playground). The commercial village of Waban, including an MBTA Green Line station, and the new Angier Elementary School are within easy walking distance of the site.

c. Adequacy of access to the site and adequacy of parking arrangements

Access to the site appears appropriate for the number and types of vehicles involved and the site was formerly used as a church. Nevertheless the site has not been actively used for over three years and the proposed project represents a significant change in daily vehicle trips for the immediate neighborhood. This project is located in an area that already experiences congestion during the AM and PM peak commuting hours and the Applicant will be expected to mitigate the impact of new traffic at proximate intersections. As mentioned earlier, the Applicant submitted a draft Traffic Impact and Access Study and the Planning Department recommends the Board authorize a peer review of this study to help analyze the report and assess proposed mitigation.

Sight lines are severely limited at the intersection of Short Street, Montclair Road and Beacon Street and the Planning Department recommends the Applicant work to develop a solution that would improve vehicular, pedestrian and bicycle safety at this intersection. Additionally, the intersection of Oak Vale and Chestnut Street is also characterized by limited visibility and the addition of vehicles at these intersections may create additional safety concerns. It should be noted that portions of Oak Vale are private and this road is in poor condition. Signal upgrades at the intersection of Beacon Street and Chestnut Street are needed as Chestnut Street in particular experiences significant queues during morning and afternoon peak hours. This intersection has been identified for improvements through the Capital Improvement Plan (CIP) in fiscal year 2017 but has not been designed nor a funding source identified.

The Applicant is proposing 78 parking stalls for the 48 units, representing 1.6 spaces per unit. This ratio is significantly higher than recently approved multi-family project where the ratio has been closer to 1.25. The Planning Department recommends the Applicant consider reducing the number of stalls to a maximum of 1.5 stalls per unit, or less if it is the desire of the Board. The Planning Department recommends parking stalls in the side setback be removed from the site plan.

d. Adequacy of open areas

The proposed site plan increases the amount of lot coverage significantly as the footprint of the proposed structures greatly exceeds the footprint of the existing church. However, the amount of open space does not appear to change dramatically as the majority of the site exists as paved parking. Regardless, the Planning Department feels that there is little usable open space on site for the residents to enjoy and the Planning Department urges the Applicant to consider increasing the amount of open space on site as an

amenity to residents and to help soften the massing of the proposed structures.

D. Economic Need for Housing Units

a. General feasibility of the project

MassHousing is the Subsidizing Agency agency that provided the preliminary determination of Project Eligibility that qualifies this proposal for comprehensive permit consideration (**Attachment D**). The preliminary determination is based, in part, on MassHousing's analysis that the proposal appears "*generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval*" and the proposal also "*appears financially feasible*" on the basis of estimated rents.

MassHousing acknowledges the City's concerns with the project, concerns expressed by the Newton Housing Partnership, elected officials, and the Waban Area Council, and concerns expressed by the community at large. The letter notes on page 4-5 that the Applicant should be prepared to provide sufficient data to assess potential traffic impacts and municipal concerns relative to safety, that the Applicant should be prepared to address municipal and abutter concerns relative to the size and scale of the Project and its impact on the character of the surrounding neighborhood, and to fully describe proposed measures to address and mitigate these concerns, including concerns relative to the lack of usable open space. The Applicant should be prepared to address these concerns at the public hearing and be open to modifications to the proposed site plan.

b. Limitations imposed by the financing agency with respect to size or character of the development, amount or nature of the subsidy, and permissible rentals and tenant limits

MassHousing did not impose any limits on the proposed project in their preliminary determination of Project Eligibility other than what is stated in the application. The Planning Department notes that the project filed with the Zoning Board of Appeals is consistent with the filing with MassHousing.

The Applicant is proposing that 10 of the units (20%) will be eligible for households earning up to 50% of AMI, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. As this is a rental project all 48 units will be eligible for inclusion in Newton's Subsidized Housing Inventory. The Planning Department recommends that the Zoning Board of Appeals condition any approval on requiring that the affordable units remain affordable in perpetuity.

c. Changes in rents and units sizes of the development which would be necessary to accommodate the requirements and regulations sought to be imposed

The proposal appears to meet all of the requirements of the Subsidizing Agency as evidenced in MassHousing's preliminary Determination of Project Eligibility.

E. Local Supply of Affordable Housing and Current Projects to Add to Supply

According to DHCD, as shown on the Subsidized Housing Inventory of December 5, 2014, 2,438 of the City's 32,346 housing units, or 7.5%, were included on the Subsidized Housing Inventory. Currently, an additional 283 eligible units are either under review, have been permitted, are currently under construction, have been recently completed, or are under appeal.

Newton's Pipeline of Affordable Units

Address / Project Name	Units Eligible for SHI
152 Adams Street*	1 unit
Riverside Station***	44 units
429 Cherry Street*****	3 units
75 & 83 Court Street***	9 units
12 and 18-20 Curve Street***	7 units
Kessler Woods @ Lagrange Street**	13 units
54 Taft Avenue***	2 units
47 Goddard Street***	1 units
28 Austin Street***	68 units
135 Rowe Street*****	135 units
TOTAL	283 Units

- * Recently completed
- ** Under construction
- *** Permit granted but not under construction
- **** Under review
- ***** Under appeal

The Planning Department notes there are other projects in the pipeline that we are aware of, however until an application is filed with the City or a Subsidizing Agency it is difficult to put them on a list with any certainty. There is a comprehensive permit in the pipeline for 1615 Beacon Street, less than a quarter mile from the subject site.

F. Landscaping, Lighting, and Fencing

The proposed site plan shows the removal of six trees on the site, as well as six trees that are considered dead and/or declining by the Tree Warden. The Applicant is proposing to replace the caliper inches removed in compliance with the Tree Preservation Ordinance. However, the Planning Department notes that all proposed replacement trees are deciduous or ornamental and a mix that included some evergreen trees would help the buildings settle into the landscape and soften the mass of the proposed new structures, particularly from abutting residences.

The Applicant did not submit a lighting plan and the Planning Department recommends that a plan be submitted so that the Board understands the requested waiver. In general the Planning Department supports waivers from the one foot candle lighting requirement for parking areas but would like to see a photometric plan with cut sheets of proposed fixtures. In general lighting should be kept low and with shields that direct light away from abutting properties.

Some of the abutting residences have fencing and it appears that the Applicant will be maintaining some and replacing others, as well as maintaining much of the existing plantings located at the property lines. The Applicant should work with abutters to determine adequate screening and fencing.

III. PLAN CONSISTENCY

A. Comprehensive Plan

Newton has always been deeply committed to the creation of affordable housing opportunities and welcomes well-planned comprehensive permits at appropriate locations that are fittingly designed for the existing neighborhood context. Over 1,300 households are on affordable housing waitlists in Newton and the Planning Department supports providing housing opportunities for households at all earning levels. The creation of more affordable housing suitable for families, which this project provides with ten deed restricted units, is identified as a priority in the City's Consolidated Plan, dated FY'16-FY'20. Additionally, the objectives of the City's *Consolidated Plan*, including fair housing, have been considered in this review.

IV. CONCLUSION AND NEXT STEPS

A. Staff Recommendations

The Planning Department is very supportive of the concept of multi-family housing at the former St. Philip Neri Church site in Waban, which is well located with respect to transportation, schools, and commercial services, and we continue to welcome the addition of diverse housing opportunities in Newton. Nevertheless we have several concerns including the massing of the proposed

structures as they relate to the surrounding neighborhood, a lack of open space, and that some level of traffic mitigation is needed before additional development can occur. At the public hearing the Planning Department recommends the Board authorize a peer review of the Draft Traffic Access and Impact Study. Prior to the being scheduled for a continued public hearing the Applicant should:

- Consider restricting additional units at 80-150% of AMI
- Finalize the Traffic Impact and Access Study
- Locate a hydrant within 100 feet of the Fire Department's connection on the multi-family building and the line should be fed from Beacon Street
- Consider decreasing the massing and increasing the setbacks of the multi-family building
- Increase the setbacks of the townhouses, decrease the length of these units and add detailing on the end units
- Confirm the number of stories and height of the buildings as depicted on the "Proposed Building and Utility Locations" plan.
- Indicated which units in the multi-family structure are affordable and how many of each bedroom type are affordable
- Clarify how many units will be universally accessible.
- Work with the City and its peer review consultant on sight line issues and potential mitigation.
- Consider reducing the number of parking stalls
- Increase the amount of usable open space on site
- Add some evergreen trees to the proposed planting mix
- Submit a photometric plan and cut sheets of proposed fixtures
- Work with abutters to determine adequate screening and fencing

Zoning Board of Appeals

The ZBA is required to render a decision, based on a majority vote within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the ZBA and the Applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the ZBA has been submitted.

The ZBA may dispose of the application in one of the following ways:

- approve a comprehensive permit on the terms and conditions set forth in the application; or
- deny a comprehensive permit as not consistent with local needs; or
- approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that address matters of local concern, and:

- a. in the aggregate do not make the building or operation of such project uneconomic; and
- b. are consistent with local needs.

ATTACHMENTS

Attachment A:	City's Letter to MassHousing Regarding Project Eligibility
Attachment B:	Zoning Review Memorandum
Attachment C:	Engineering Division's Review Memorandum
Attachment D:	MassHousing's Determination of Project Eligibility
Attachment E:	Zoning Map
Attachment F:	Land Use Map



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Attachment A

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James Freas
Acting Director

June 23, 2015

[By Electronic Mail and Regular Mail]

Katharine Lacy
Monitoring and Permitting Specialist
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

RE: Chapter 40B Comprehensive Permit Project Eligibility Application/Site Approval

Location:	1521 Beacon Street, Newton, MA 02468
Number of Proposed Units:	48
Subsidizing Agency:	Massachusetts Housing Finance Agency (MassHousing)
Applicant:	Waban AMA Realty Ventures, LLC

Dear Ms. Lacy:

The Planning and Development Department, on behalf of the City of Newton, appreciates the opportunity to comment on the Project Eligibility/Site Approval application recently submitted by Waban AMA Realty Ventures, LLC (the "Applicant") for 1521 Beacon Street, Newton, MA 02468 (the "Project"). This letter constitutes the City's response to your letter addressed to Mayor Warren, dated April 28, 2015, seeking comments regarding the Project.

The Applicant should be commended for holding a community meeting in early May, which was very well attended by the neighborhood. Written comments received by the Planning and Development Department (the "Department") from interested parties are attached (**ATTACHMENT A**); these comments have informed the City's response. As you will note, there has been an overwhelming response from the neighborhood on this project.

Newton has a longstanding commitment to the creation of affordable and equitable housing opportunities in our City and recently announced a goal to add at least 800 affordable units by 2021, so that 10 percent of our housing stock is affordable. Nevertheless, Newton has recently asserted that it has met the 1.5% general land area minimum pursuant to Chapter 40B. This issue is currently pending before the Housing Appeals Committee. Although we believe we have met the general land area minimum, we continue to welcome additional housing opportunities that are the right fit for the right place. To ensure such projects represent a good fit for the City and the respective neighborhood in which they are looking to develop in, the City strongly encourages careful siting, design, and project programming. Overall, Newton supports increasing the diversity and supply of housing, especially affordable housing, and through the *Newton Comprehensive Plan*, adopted in 2007, has a goal of encouraging “Residential development that is well located in relationship to transportation, schools, commercial services, large employers, and existing patterns of residential type and character.”¹ Additionally, the objectives of the City’s *Consolidated Plan*, including fair housing, have been considered in this review.

Overall the Planning Department is very supportive of the concept of multi-family housing at the former St. Philip Neri Church site in Waban, which is well located with respect to transportation, schools, and commercial services. However, the Department has several concerns about the Project, which mainly have to do with the massing of the proposed structures as they relate to the surrounding neighborhood context. We are particularly concerned with the height of the proposed townhouse structures facing Karen Road which look to be approximately 47 feet in height and are only 15 feet back from the property line, where surrounding structures are one- to two-story structures and required setbacks are 25 feet from the front property line. We strongly encourage the developer to increase the front and side setbacks to 25 feet and to reduce the height of these units to not exceed 36 feet.



View of existing Church from Short Street

We believe that the site plan would benefit from additional open space left in its current natural state, which would help to conserve the character of this prominent lot and help mitigate the impacts of this project on the site and neighborhood. A reduction in the footprint of the multi-family structure to be more in keeping with the footprint of the existing church on

¹ *Newton Comprehensive Plan*, 2007. Page 5-14

site would help to decrease the amount of impervious surface proposed and maintain more of a buffer with adjacent residences. The Planning Department has strongly encouraged the Applicant to consider adapting the existing Church structure into residential units, which would be welcomed by the neighborhood as preserving the site's integrity, and would lead to a project with an appropriate scale and density. In fact, we are convinced that if the Applicant were to reuse the existing Church structure and reduce the height of the townhouses on Karen Road, there would be little opposition to this project.

Finally, the Planning Department is concerned that some level of traffic mitigation is needed at three separate intersections that this project will effect. These intersections included 1) Beacon and Chestnut Street, 2) Montclair Road Short Street and Beacon Street, and 3) Oak Vale and Chestnut Street. Chestnut Street runs north-south and experiences significant queues during peak hours. Signal upgrades and turn lanes at the intersections at Beacon Street and Commonwealth Avenue are needed. In addition, sight lines are limited at the intersection of Montclair Road Short Street and Beacon Street, as well as at Oak Vale and Chestnut Street, and the addition of vehicles at these intersections may create safety concerns for vehicles and pedestrians that must be mitigated before development can occur.

Although the Planning Department has concerns with the proposed massing, density, and lack of open space given the existing neighborhoods single-family context, we acknowledge that the Applicant's proposal adds units of permanently restricted affordable housing at the 50% AMI threshold, which is a particular need in Newton, and the Planning Department appreciates the diversity this project brings to the City's affordable housing stock. We are however, concerned that the rest of the units are being touted as "luxury rentals," unaffordable to many seniors and working families. The City would benefit from additional units restricted at 80-150% of AMI, rather than such a stratified project.

The Department expects the Applicant to address all concerns raised in this letter should this project move forward. The Department offers the following comments in response to the information provided by the Applicant to help MassHousing evaluate this request for Project Eligibility/Site Approval:

A. Land Use, Site Plan Design and Sustainability

The regulation for a Comprehensive Permit under M.G.L. Chapter 40B states that the Subsidizing Agency determine whether *"the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns."*²

² (760 CMR 56.04(4)(c))

- **Land Use and Density.** The surrounding neighborhood is comprised of parcels used for single-family residential use, as well as an actively used playground. The project site and surrounding neighborhood are zoned Single Residence 2 ("SR2"), which requires 15,000 square feet per lot and does not allow for multi-family use. Considering the site's proximity to transportation and services, the Department believes that the site is an appropriate location for a residential use, including multi-family. However, the Department has reservations about the number of units being proposed and the massing of the proposed structures. The following table provides a zoning comparison of the zoning requirements and the proposed project.

SR2 Zone	Required	Proposed
Lot Size (lots created after 12/7/53)	15,000 square feet	69,050
Frontage	100 feet	240 feet
Lot area per unit	15,000	1,438 square feet
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	30 feet 15 feet 15 feet	15.5 feet (Karen Road) 10 feet 15 feet
Building Height	36	47.5 feet (Karen Road)
Max Number of Stories	2.5	5
FAR	.33	1.16
Max Lot Coverage	20%	35%
Min. Open Space	65%	35%

The Waban area of Newton is one of the least dense neighborhoods in the City, which contributes to the existing context and character of the neighborhood. By right, the subject property can accommodate four large single family houses.

The 12 proposed townhomes total approximately 29,000 square feet. The Planning Department is concerned that the proposed height of 47 feet for these units is too tall and too close to the street. The proposed 5-story multi-family structure is approximately 51,000 square feet and includes 36 units. No information was included on the height of the multi-family building. The Planning Department notes the Applicant is proposing an FAR of approximately 1.15 where .33 is the maximum allowed. The Department encourages the MassHousing to consider whether or not the proposed density is appropriate for the site given the existing surrounding neighborhood context. The Planning Department believes the proposed project exceeds a reasonable amount of development for this site and we encourage the Applicant to consider shrinking the

footprint of the proposed multi-family building, to reduce the height of the proposed structures, and to increase the setbacks to 25 feet on all sides of the structures in order to lessen the effects on the immediate neighborhood.

- **Building Massing, Design and Architecture.** In early development review meetings, the City consistently encouraged the Applicant to seek to emulate the residential character of the neighborhood and the existing church rather than design an institutional looking apartment building. The proposed project consists of one large multi-family structure and 12 townhomes. The Planning Department is supportive of the concept of the two typologies of structures on this lot so that there is a contiguous streetscape along and in keeping with both Short Street and Karen Road. The multi-family structure is 3.5-5.5 stories, reducing to 2.5-3.5 story wings on each side. Although the Planning Department appreciates the attempt to reduce the mass of this structure through architectural detailing and the stepped-down wings, this building still appears quite large and takes up much of the site along Short Street with an approximately 13,000 square foot footprint. Reducing the height (which is not noted on plans), increasing the side setbacks, and scaling back the footprint would help the building fit better between the adjacent 2.5-story houses.

The same can be said for the townhomes fronting on Karen Road which appear to tower over abutting properties at 47 feet in height. Reducing the height and increasing setbacks is imperative to help these structures fit into the single-family context on this street. Besides the massing, the Planning Department has no concerns with the proposed arts and crafts architectural style of the multi-family structure, or the transitional style of the townhouse units.

For the most part the proposed unit sizes appear appropriate and in keeping with the unit sizes sought by the City's *Comprehensive Plan* and the *Consolidated Plan*, particularly in the multi-family structure. The twelve proposed townhouse units are significantly larger, particularly when you include the attached two car garage, which unnecessarily adds to the height of these structures by taking up the bulk of the first story. The Applicant should consider reducing the height of these structures by at least one story by eliminating the garages in favor of surface parking behind the proposed townhouses.

The Planning Department notes that submitted floor plans do not note which units are proposed as deed restricted units. This should be clarified should this project move forward. The Planning Department also notes that three of the 10 affordable units are studios, which is not consistent with the overall unit mix of the project, and suggests that one affordable studio be switched for an additional affordable two-bedroom unit.

- **Open Space, Landscaping and Tree Removal.** As noted earlier, the Planning Department is concerned with the lack of open space on site considering the proposed mass of the buildings. The Applicant did not include a landscape plan in their submission although the project budget includes a substantial line item for plantings. The Planning Department encourages the applicant to consider a robust mix of fast-growing native deciduous and evergreen trees to help nestle the building into the site and to help soften the mass of the proposed buildings. The Planning Department strongly encourages the applicant to retain the existing trees on the Short Street side of the property to preserve the integrity of the site.
- **Noise, Lighting, and Construction Management.** Submitted plans include the location of some but not all mechanical equipment. The Applicant should carefully select all outdoor equipment models and their location in order to eliminate sound heard by future residents and abutters. Should this project move forward the Applicant should show any venting that is required on elevation drawings, and should submit a photometric plan and details of site lighting fixtures to ensure that there is no light spillage onto adjacent properties or the street. A detailed construction management plan will also be required as area residents will be concerned about the impact of contractor parking, drainage, dust, noise, staging, and truck traffic on the site and neighborhood streets. Such a plan should include a designated contract person for the construction along with 24-hour contact information, as well as monthly construction updates for distribution to neighbors.
- **Smart Growth and Green Building Design.** The Department believes the projects location is consistent with smart growth principles; however there is little information in the Applicant's submittal that addresses how sustainably the project will be developed. The Planning Department encourages the applicant to articulate sustainable features of the project (besides site location) should this project move forward. We encourage the building to be LEED Certifiable at the Gold level, similar to the 192 Lexington Street 40B in Newton.

The Department encourages the Applicant to consider how the efficiency and performance of the dwelling units can align with the City's policy that the site planning, preservation of trees and topography, building design, construction, maintenance or long-term operation of the premises contribute to the efficient use and conservation of natural resources and energy.

B. Affordable Housing

- **Affordable Housing Need.** Newton has a longstanding commitment to affordable housing, having created regulatory methods and undertaken actions to meet affordable

housing needs in the City (See Section C). As of December 5, 2014, 2,438 of the City's 32,346 housing units were included on the Subsidized Housing Inventory. Currently, there are four additional private developments approved with 73 SHI-eligible units and an additional seven developments in the pipeline that have an additional 608 SHI-eligible units. Of these units, 149 will be affordable to households earning 80 percent or less of the Area Median Income (AMI). Nonetheless, this will not meet the overwhelming demand for affordable rental housing as evidenced by the over 1,300 families and seniors on the Newton Housing Authority waitlist.³ In order to help address this need Newton has set a goal to add at least 800 affordable units by 2021, so that 10 percent of our housing stock is affordable.

- **Existing Housing Stock and Household Income.** Newton's housing stock is diverse in age, size, design and type. Approximately 61 percent of Newton's housing units are detached single-family homes, 25 percent are two-four family homes and 14 percent are multi-family buildings. Although the Newton median household income is \$98,500, approximately 25 percent of Newton households earn less than 80 percent of AMI.⁴ According to federal data, 17 percent of Newton renter households have a housing cost burden greater than 30% of their income, which is regarded by the U.S. Department of Housing and Urban Development as unaffordable.⁵
- **Unit Mix and Affordability.** The unit mix is provided in the chart below.

Unit Type	Total Units	Market Rate	Affordable	Percent Affordable	Total Unit Type
0-BR	7	4	3	42%	100%
1-BR	14	11	3	21%	100%
2-BR	15	13	2	13%	100%
3-BR	12	10	2	16%	100%
Total	48	38	10	21%	100%

As the chart above indicates, there is an unequal distribution of the affordable units across all unit types in this project. The Planning Department notes that three of the 10 affordable units are studios, which is not consistent with the overall unit mix of the project, and suggests that one affordable studio be switched for an additional affordable two-bedroom unit.

³ As identified in WestMetro HOME Consortium Regional Fair Housing Plan FFY15-20.

⁴ U.S. Dept. of Housing and Urban Development; Comprehensive Housing Affordability Strategy Data, 2006-2010

⁵ U.S. Dept. of Housing and Urban Development; FY13 Estimates for Low-to Moderate Income Persons

The Project is proposing two affordable 3-bedroom units, which is greater than the State's policy of providing at least ten percent 3-bedroom units in a project. This policy ensures that new development provides some housing opportunities for families with children, which is a protected class under Massachusetts anti-discrimination law.⁶ The Project responds to the *Comprehensive Plan's* goal of seeking housing stock that matches the social and economic diversity of Newton's population, which ***"requires increasing both rental and home ownership opportunities for the entire range of low, moderate, and middle income families, for starter households as well as for senior citizens."***⁷ Housing demand for these household types is increasing throughout the region and the Department supports creating affordable units for families with children, which the Project's three bedroom units will likely attract.

C. Municipal Actions to Support the Creation of Affordable Housing

The City has been proactive in the creation and preservation of affordable housing to meet existing needs through its existing financial and regulatory programs. The City has provided its support to development projects that provide a higher level of sustainability, accessibility and a greater percentage and mix of affordability. These projects and programs will create significant affordable housing opportunities in the City.

- **Subsidized Affordable Housing Development.** The City has expended substantial municipal and federal resources to create and preserve affordable housing. Since 2008, the City has provided more than \$13.1 million in Community Preservation Act (CPA), Community Development Block Grant, (CDBG) and HOME funds for affordable housing development projects. Over 30 percent of Community Preservation funds have funded the creation of affordable housing, which is 20 percent more than the regulatory requirement.
- **Inclusionary Zoning.** Newton was one of the first cities in the Commonwealth to enact an inclusionary zoning ordinance. The ordinance requires developments requesting a special permit to create 15 percent of the units as affordable to income-eligible households. Since its adoption in 1977, the ordinance has resulted in the creation of over 250 affordable units. The inclusionary housing ordinance has proven an effective tool as development activity increases due to strong demand. Currently, 81 additional inclusionary affordable housing units are in the pipeline (including 57 units in approved projects and 23 units in pending projects).

⁶ M.G.L. Chapter 151B

⁷ City of Newton Comprehensive Plan, 2007 (page 5-12)

- **Planning Efforts and Zoning Reform.** As mentioned earlier, Newton has set a goal to add at least 800 affordable units by 2021, so that 10 percent of our housing stock is affordable. In June 2015, the Department of Planning and Development and Mayor Warren embarked on a 9-month process to develop a City-wide Housing Strategy that addresses current and future housing needs in the City. In the end, this housing strategy will identify housing development goals and provide us with a clear set of actions that will allow us to advance those goals. It is anticipated that action items will include policy and financing recommendations as well as specific locations for new development. The City is also in the process of redeveloping a municipal parking lot to create a mixed-use project in Newtonville. Twenty-five percent of these units will be affordable. These local efforts will provide additional affordable housing options geared to singles, young couples and empty nesters.
- **Local Initiative Program/Chapter 40B Proposals.** The Department is currently working with a non-profit to submit a Local Initiative Site Eligibility application that would renovate and expand an existing single family home on Taft Avenue to create two units of affordable housing. In Addition, the department has recently approved two LIP projects that will yield 16 affordable units once constructed. This includes nine units of affordable homeownership housing in a 36-unit structure on 75-83 Court Street, and 7 affordable rental units as part of the rehabilitation and expansion of two dwelling units on 12 and 18-20 Curve Street.

D. Traffic, Parking and Transportation Impacts

- **Traffic.** The Applicant did not provide a traffic impact assessment for the Project to date, and one will be required should this project move forward. Although the Planning Department generally believes that residential development is not a significant contributor to traffic, this project is located in an area that already experiences congestion during the AM and PM peak commuting hours and the Applicant will be expected to mitigate the impact of additional traffic at three intersections including (1) Montclair Road, Short Street and Beacon Street; (2) Oak Vale Road and Chestnut Street; and (3) Chestnut Street and Beacon Street.

Sight lines are severely limited at the intersection of Short Street, Montclair Road and Beacon Street. Should this project move forward, Transportation Division staff recommends that the Applicant work with the City to develop a design that would improve vehicular, pedestrian and cyclist safety through this intersection. The intersection of Oak Vale and Chestnut Street is also characterized by limited visibility, and the addition of vehicles through this intersection may create additional safety concerns for vehicle, pedestrians and cyclists. (It should be noted that portions of Oak Vale are a private road and this road is in poor condition.) Signal upgrades at the

intersection of Beacon Street and Chestnut Street are needed as Chestnut Street in particular experiences significant queues during morning and afternoon peak hours. This intersection has been identified for improvements through the Capital Improvement Plan (CIP) in fiscal year 2017 but has not been designed nor a funding source identified.

- **Parking.** The Applicant is proposing 82 parking spaces for the 48 residential unit (106 if you include the stalls behind the townhouse units), meeting Newton's parking requirements but leaving little open space available to residents. Transportation Division staff believe that the proposed number of parking stalls will be sufficient when considering the unit sizes, likely demographic of potential buyers, and access to public transportation at the nearby Waban Green Line Station. The Transportation Division encourages the Applicant to decouple the parking from the rent so that residents who choose to not own cars are not penalized, and to consider delaying the paving of some of the stalls until it is known that there is a need for the proposed number of stalls.
- **Site Access.** The Project will provide vehicular access from Karen Road via a 20 foot driveway. As currently proposed, the Project's common drive will be located along the western property line. The Transportation Division recommends that the Applicant incorporate a walkway adjacent to the driveway so that residents from the multi-family building are provided a defined access to Karen Road.
- **Bicycle Accommodations.** Transportation Staff encourages the Applicant to provide high quality bicycle accommodations on site in order to encourage alternative modes for trip-making, including bicycle travel to access public transportation and shared use vehicles at the Waban Green Line Station.

E. Summary of Concerns

The Planning Department is very supportive of the concept of multi-family housing at the former St. Philip Neri Church site in Waban, which is well located with respect to transportation, schools, and commercial services, and we continue to welcome the addition of diverse housing opportunities in Newton. Nevertheless we have several concerns including the massing of the proposed structures as they relate to the surrounding neighborhood, a lack of open space left in its natural state, and that some level of traffic mitigation is needed before additional development can occur. We also note that the neighborhood has been actively involved in this project and has raised similar concerns in their attached letters. The Planning Department encourages MassHousing to join us in encouraging the Applicant to consider adapting the existing Church structure into residential units and reducing the height of the townhouse units on Karen Road, which

would lead to a project with an appropriate scale and density that would be welcomed by the neighborhood.

Please do not to hesitate to contact me if you have any questions about the contents of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "James Freas", with a long horizontal flourish extending to the right.

James Freas
Acting Director, Planning and Development Department

Cc Mayor Setti D. Warren
Donnalyn B. Lynch Kahn, City Solicitor
Applicant
Alderman John Rice
Alderman Brian E. Yates
Alderman Deborah Crossley

Attachments:

ATTACHMENT A: Comment Letters Received



Setti D. Warren
Mayor

Attachment B

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James Freas
Acting Director

ZONING REVIEW MEMORANDUM

Date: January 21, 2016

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Waban AMA Realty Ventures, LLC
SEB, LLC, Development Consultant
Schlesinger and Buchbinder, LLP, attorney
James Freas, Acting Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request for a Comprehensive Permit under MGL Chapter 40B to construct a 36-unit multi-family residential dwelling with below-grade parking and three townhouse buildings containing twelve units with interior garages, for a total of 48 residential units

Applicant: SEB Court Street, LLC	
Site: 1521 Beacon Street	SBL: 53034 0004
Zoning: Single Residence 2	Lot Area: 70,335 square feet
Current use: Church	Proposed use: 36-unit multi-family dwelling plus 12 units in three townhouse buildings

BACKGROUND:

A Comprehensive Permit under MGL Chapter 40B is requested to construct 48 residential units at 1521 Beacon Street. The property is located within the Single Residence 2 zoning district, and is approximately 70,335 square feet with 273 feet of frontage on Beacon Street/Short Street and 207.7 feet of frontage on Karen Street.

The lot at 1521 Beacon Street was the site of the Saint Phillip Neri Roman Catholic Church, built circa 1930. The subject site consists of two parcels of land which were deeded to the current owner from the Roman Catholic Archbishop of Boston in 2013. The project proposes to raze the existing structure and build 48 rental units in a 36-unit multi-family dwelling and three townhouse buildings. Parking will be located below the units in the multi-family structure and in interior garages for the townhouse units.

The proposed project will consist of 48 rental units, ranging from 574 square foot studios to 2,137 square foot three-bedroom units. The project will provide 10 affordable units (20%) meeting the definition of low and moderate income under the statute.

A 36-unit multi-family apartment building is proposed fronting Beacon Street/Short Street, with vehicular access from Karen Road. The proposed building is four and one-half stories and is set back in alignment with the neighboring single-family homes. Three townhouse buildings are proposed fronting on Karen Road. Twelve total units with interior parking are proposed within the three buildings. The townhouse buildings are two and one-half stories.

The project proposes 78 parking stalls on site. The multi-family building will be built over an at-grade parking garage containing 28 spaces. An additional 23 surface stalls are proposed for use by the residents of the building. In addition, the three townhouse buildings will provide 21 interior parking stalls (with 21 surface stalls in front of the garage spaces, which are not included in the parking figures). Finally, six surface parking spaces are proposed on the easterly portion of the lot for visitor parking.

The following review is based on plans and materials submitted to date as noted below.

- Comprehensive Permit Application, submitted by 135 Wells Avenue, LLC, submitted 5/27/2014
 - Project Data Summary
 - Applicant Status
 - Site Approval Letter
 - Development Team
 - Site Control
 - DHCD Subsidized Housing Inventory
 - List of Exceptions/Waiver Requests
 - Abutter List
 - Traffic Impact Study and Parking Demand Analysis
 - Engineering and Architectural Plan Set
 - Existing Site Conditions

ADMINISTRATIVE DETERMINATIONS:

1. The subject property is located in the Single Residence 2 zoning district. The applicant is proposing a 36-unit multi-family dwelling structure and twelve townhouse units in three smaller buildings. Section 3.4.1 of the Newton Zoning Ordinance does not allow multi-family dwellings and townhouses in the Single Residence 2 District. A waiver is required to allow a multi-family residential dwelling and townhouse use in a Single Residence 2 district.
2. Section 5.11 of the Zoning Ordinance provides requirements for providing affordable units for private residential developments. The Applicant proposes to provide 10 affordable units within the development, or 20% of the total number of units, as defined by the regulations of MassHousing. To the extent that Section 5.11 of the Zoning Ordinance might be applicable to the

project, a comprehensive permit is requested in lieu of a special permit under Section 5.11 to conform the affordability elements of the proposed development to the requirements of the Zoning Ordinance.

3. The required lot area per unit per Sections 3.1.2 and 3.1.3 is 15,000 square feet. The applicant is proposing a lot area per unit of 1,465 square feet per unit, which will require a waiver.
4. Section 3.1.3 requires a front setback of 30 feet. The Applicant proposes a front setback of 26.5 feet for the apartment building, and 9.8 feet for the townhouses. The proposed reduced front setbacks will require waivers from the front setback provision found in Section 3.1.3.
5. Section 3.1.3 requires a side setback of 15 feet. The Applicant proposes a side setback of 9.8 feet on the westerly portion of the apartment building, and 10 feet for the townhouse building furthest east, which requires waivers.
6. The maximum floor area ratio for a 70,335 square foot lot in the Single Residence 2 zoning district is .33, per Sections 3.1.3 and 3.1.9. The applicant proposes an FAR of 1.19, which requires a waiver.
7. The Applicant is proposing a 4.5-story apartment building, where 2.5 stories are the maximum allowed by Section 3.1.3. A waiver is required to allow for 4.5 stories.
8. The maximum building height permitted in the SR2 zoning district is 36 feet. The Applicant is proposing a building height of 56.14 feet for the apartment building. To exceed 36 feet in height requires a waiver from Section 3.1.3.
9. Per Section 3.1.3, the minimum open space allowed on a lot is 65%. The project proposes 35% open space, and therefore requires a waiver.
10. The project creates lot coverage of 35%, where the maximum allowed by Section 3.1.3 is 20%. A waiver is required.
11. The Applicant seeks a waiver from the provisions of Section 5.1.13 of the Zoning Ordinance, providing blanket relief from any and all parking requirements to the extent necessary.
12. To the extent that Section 5.1.3.E prevents assignment of parking spaces to units, a waiver is sought.
13. Section 5.1.4.A requires two stalls per each dwelling unit. With 48 units on the property, 96 stalls are required. The applicant is providing a total of 78 stalls on site, or 1.625 stalls per unit. A waiver from Section 5.1.4.A is required to reduce the number of required parking stalls.
14. Section 5.1.5 requires that any parking facility containing more than five stalls and any loading facility shall not be constructed without first submitting an off-street parking and loading plan. The Applicant seeks a waiver from this requirement.

15. Section 5.1.8.A.1 prohibits outdoor parking within the required side setbacks. The applicant proposes several parking stalls within the side setback on the eastern property line. A waiver is required.
16. Section 5.1.8.A.2 prohibits parking within 5 feet of a building containing residential dwelling units. There are 13 surface parking stalls proposed within 5 feet of the apartment building. A waiver from Section 5.1.8.A.2 is required.
17. Section 5.1.8.B.6 requires that end stalls restricted on one side by curbs, walls, fences or other obstructions shall have maneuvering space at the aisle end of at least five feet in depth and nine in width. The applicant seeks a waiver from this provision.
18. Sections 5.1.8.C.1 and 2 require that 90-degree parking stalls in two-way traffic have a minimum maneuvering aisle width of 24 feet. The applicant proposes an aisle width of 20 feet and therefore requires a waiver from these provisions.
19. Section 5.1.9.A requires perimeter screening for outdoor parking facilities with more than five stalls. To the extent that the proposed parking facility does not meet the requirements of Section 5.1.9.A, a waiver is required.
20. Section 5.1.9.B requires interior landscaping for outdoor parking facilities with more than five stalls. To the extent that the proposed parking facility does not meet the requirements of Section 5.1.9.B, a waiver is required.
21. Section 5.1.10.A.1 requires that the facility provide security lighting, and that said lighting maintain a minimum intensity of one foot candle on the entire surface of the parking facility. Should the applicant not meet this requirement, a waiver is necessary.
22. Per Section 5.1.10.A.2 of the Zoning Ordinance, and Section 20-26 of the provisions of Section 20, Article IV, artificial light may not spill onto adjacent streets and properties. The applicant is seeking a waiver from these provisions, to the extent necessary.
23. To the extent necessary, the applicant seeks a waiver from the off-street loading requirements of Section 5.1.12.
24. The Applicant seeks a waiver in lieu of any consent required by the City Engineer for the proposed drainage of the outdoor parking per Section 5.1.13.
25. The Applicant seeks a waiver from the site plan approval requirements of Section 7.5 in connection with special permits granted under Section 7.3.
26. Revised Ordinances Sections 20-23 – 20-28 provide limitations on installation of light sources which do not conform to the criteria of the Ordinances. Section 20-26 provides for waivers to be granted by the Planning Board to the extent that any light source does not conform to the requirements of Section 20-24. To the extent that any light source may not conform to these

requirements, or that these requirements may be inconsistent with Section 5.1.10.A, the Applicant seeks a waiver.

27. The Applicant seeks a waiver from the provisions of the Tree Preservation Ordinance, sections 21-81 through -89, as amended by Ordinance No. A-38 (#397-13), to allow removal of protected trees from the property without relocation or replacement, or payment to the tree replacement fund. To the extent that any permit or fee payment would otherwise be required under the Revised Ordinances section 21-80, the Applicant seeks a waiver.
28. Revised Ordinances Section 22-50 requires review by the Newton Historic Commission and the possible imposition of a demolition delay for the demolition of historically significant buildings. To the extent that the existing dwellings or other elements of the property are deemed historically significant and fall under the jurisdiction of the Newton Historic Commission under Section 22-50, the Applicant seeks a waiver under the Comprehensive Permit.
29. To the extent that any consent or review by the Planning Board is required under Planning Board rules, a waiver is required.
30. The Applicant seeks a permit to cross the sidewalk under the provisions of Section 26-65 Construction of Sidewalks, Driveways and Driveway Entrances.
31. The Applicant seeks a permit to connect to the public water supply, per Section 29, Article II of the Newton City Ordinances.
32. Per Section 29, Article III, the Applicant seeks a permit for connection to the public sewer system.
33. The Applicant seeks a permit for the storm sewer connection under Section 29, Article IV, or otherwise for the project's overflow discharge of storm water to the City's storm drain system.
34. The Applicant seeks any relief from local rules and regulations, and any additional required local approvals as may be necessary for approval for the Comprehensive Permit plans as may be amended prior to the termination of the public hearing.

Zone MR1	Required	Existing	Proposed
Lot Size*	15,000 square feet	70,335 square feet	No change
Lot area per unit	15,000 square feet	N/A	1,465 square feet
Frontage	100 feet	273 feet	No change
Setbacks <ul style="list-style-type: none"> Front <div>Apartment Bldg</div> Townhouses Side <div>Apartment Bldg</div> Townhouses Rear* <div>Apartment Bldg</div> Townhouses 	30 feet 25 feet 15 feet 15 feet		<div>26.5 feet</div> <div>9.8 feet</div> <div>9.8 feet</div> <div>10 feet</div> <div>N/A</div> <div>39 feet</div>
Floor Area Ratio	.33		1.19
Building Height <div>Apartment Bldg</div> Townhouses	36 feet		<div>56.14 feet</div> <div>32.42 feet</div>
Max number of stories <div>Apartment Bldg</div> Townhouses	2.5		<div>4.5</div> <div>2.5</div>
Min Open Space	65%		35%
Max building lot coverage	35%		25%
Parking stalls	96		78

*As to the rear setback, the lot runs from Beacon Street/Short Street to Karen Road. Therefore, the apartment building, Townhouse #1 and Townhouse #2 have no rears, but instead two fronts and two sides. Townhouse #3 is the only building with a rear, and therefore a rear setback requirement.

35. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.1	To allow a multi-family dwelling in the MR1 district	C.P. per MGL c 40B
§5.11	Waive inclusionary zoning requirements	C.P. per MGL c 40B
§3.1.2 §3.1.3	Waive lot area per unit requirement	C.P. per MGL c 40B
§3.1.3	Waive required front setback	C.P. per MGL c 40B
§3.1.3	Waive side setback requirement	C.P. per MGL c 40B
§3.1.3 §3.1.9	Waive maximum floor area ratio	C.P. per MGL c 40B
§3.1.3	Waive maximum number of stories	C.P. per MGL c 40B
§3.1.3	Waive maximum height	C.P. per MGL c 40B
§3.1.3	Waive minimum open space requirement	C.P. per MGL c 40B
§3.1.3	Waive maximum lot coverage	C.P. per MGL c 40B
§5.1.13	Waive all requirements of the parking regulations	C.P. per MGL c 40B
§5.1.3.E	Waive to allow assigned parking	C.P. per MGL c 40B
§5.1.4.A	Reduce the number of required parking stalls from 96 to 78	C.P. per MGL c 40B
§5.1.5	Waive requirement for off-street loading and parking plan	C.P. per MGL c 40B
§5.1.8.A.1	To allow parking in the side setback	C.P. per MGL c 40B
§5.1.8.A.2	To allow outdoor parking within 5 feet of a residential structure	C.P. per MGL c 40B
§5.1.8.B.6	To reduce aisle end maneuvering space	C.P. per MGL c 40B
§5.1.8.A.1	To allow parking in the side setback	C.P. per MGL c 40B
§5.1.9.A	To waive perimeter landscaping requirements	C.P. per MGL c 40B
§5.1.9.B	Waive interior landscaping requirements	C.P. per MGL c 40B

§5.1.10.A.1	Waive lighting requirements for outdoor parking	C.P. per MGL c 40B
§5.1.10.A.2 §20-26	Waive lighting requirements for outdoor parking regarding light spill onto neighboring properties	C.P. per MGL c 40B
§5.1.12	Waive off-street loading requirements	C.P. per MGL c 40B
§5.1.13	Waive consent by the City Engineer for the proposed drainage of the outdoor parking	C.P. per MGL c 40B
§7.5	Waive site plan approval procedures	C.P. per MGL c 40B
§20-23 §20-28	Waive Light Trespass provisions	C.P. per MGL c 40B
§21-81—89	To allow removal of protected trees without relocation or replacement or payment into the tree replacement fund	C.P. per MGL c 40B
§22-50	Waive requirement for review by Newton Historical Commission	C.P. per MGL c 40B
§26, Article III	Permit to cross sidewalk and connect to Court Street	C.P. per MGL c 40B
§29, Article II	Permit to connect to public water supply	C.P. per MGL c 40B
§29, Article III	Sewer connection permit	C.P. per MGL c 40B
§29, Article IV	Storm drain connection permit	C.P. per MGL c 40B

CITY OF NEWTON
Department of Public Works
ENGINEERING DIVISION

MEMORANDUM

To: Brooke Lipsitt, Chair. Zoning Board of Appeals

From: John Daghljan, Associate City Engineer

Re: Comprehensive Permit – 1521 Beacon Street

Date: January 21, 2016

CC: James Freas, Acting Director of Planning & Development
Lou Taverna, PE City Engineer
Ted Jerdee, Director of Utilities
Alexandra Ananth, Chief Planner

In reference to the above Comprehensive Permit the follow are my comments and for the plan entitled:

*1521 Beacon Street
Newton, MA
Prepared by: Verne T. Porter, Jr., PLS
Dated: December 18, 2015*

Executive Summary:

The existing site is developed as a religious institution and has a large paved parking lot; the site is relative flat having a high point at elevation 105-feet at the southerly corner of the lot at Short Street and gently slopes down to elevation 100-feet near Karen Road. A City Drain Easement traverses the site starting from Short Street with a 15” diameter pipe and doglegs to Karen Road. This existing drain pipe collects runoff from Short Street and directs it to the 24” diameter pipe in Karen Road. This easement will remain active regardless of the proposed project.

The proposed development includes 4 structures ~ 3 Townhouse buildings along Karen Road, and a larger apartment building along Short Street which will be accessed via an internal horseshoe shape driveway. Parking is provided along the driveway and an underground parking garage beneath the apartment building.

The engineer of record shows on-site collection system for stormwater runoff and infiltration systems; however no drainage report or soil evaluations were submitted for this review. One of the proposed infiltration systems placed between the apartment building and #599 Chestnut Street this is unacceptable, it should be relocated within the parking lot area and away from this residential property.

According to the Director of Utilities the water service for this site must be obtained from Chestnut Street which is a 12" diameter main; instead of Karen Road which only has a 6-inch diameter pipe. The applicant needs to verify with the Fire Department & Building Code if the larger apartment building will require a fire suppression system. If it is warranted, a separate dedicated fire service is required along with fire flow tests on the two closest fire hydrants on Chestnut Street.

The project site lies within Area A of the sanitary sewer basin which has ongoing infiltration and inflow problems; based on the flow monitoring report conducted in 2010 by our consultant the system in this basin has:

Net Peak Infiltration	1,850,000 gallons per day
Estimated Peak Inflow	3,939,858 gallons per day

To help offset these flows, the Utilities Division is requiring a one-time contribution from the applicants to be applied towards the removal of Infiltration & Inflow as follows:

87 bedrooms x 110 gal/bedroom x \$8.40 (treatment & transmission) x 8:1 = \$643,104.00
--

In concert with all the construction activity along Karen Road, the applicant will be required to update the current sidewalks & curbing in compliance with the ADA & Architectural Access Board and the City of Newton Construction Standards. This would be the ideal opportunity to remove the overhead power & telecommunication system and underground the respective utilities along the entire frontage. The maximum driveway apron open is 22-feet the plan indicates 24-feet. A turning template plan is needed to verify the safe maneuvering of Fire apparatus into and out of the site. The template is the bus-45 series.

Snow storage areas need to be identified on the plan, with all the proposed paved areas and limited green space, snow storage is a concern.

Finally, the applicant needs to address how trash and recycling generated from the development will be handled.

Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6.6 -inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site.
2. The soils logs and soil testing in accordance to Title V, associated with the design of the drainage system need to be submitted. One test pit and percolation test shall be performed within 25' of proposed on site drainage facilities.
3. When a connection to the City's drainage system is proposed, prior to approval of the Building Permit a Closed Circuit Television (CCTV) inspection shall be performed and witnessed by the Engineering Division, the applicant shall retain a contractor that specializes in CCTV inspection. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore, upon completion of the connection to the drainage system a Post – Construction video inspection shall also take place and witnessed as described above. This is required regardless of the connection point, the intent is to ensure that there are no downstream blockages or damaged pipe so that the contractor of record is not held accountable for preexisting conditions.
4. A hydraulic capacity of the downstream drainage system needs to be evaluated and submitted to the Engineering Division to determine any impact to the municipal drainage system.
5. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.

6. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all apparentness including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.

Environmental:

1. Has a 21E investigation & report been performed on the site, if so copies of the report should be submitted the Newton Board of Health and the Engineering Division.
2. Are there any existing underground oil or fuel tanks, are they to be removed, if they have been evidence should be submitted to the Newton Fire Department, and Newton Board of Health.
3. As the total site disturbance is over an acre, a Phase II General Construction (NPDES) Permit will need to be filed with DEP & EPA. A Stormwater Pollution Prevention Plan (SWPPP) will need to be developed.

Construction Management:

1. A construction management plan is needed for this project. At a minimum it must address the following: staging site for construction equipment, construction material, parking for construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean.
3. An approved type of siltation control is needed for the site.

Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the

dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer main need to match.

2. The existing water & sewer services to the church building shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected my result in the delay of issuance of the Utility Connection Permit.
3. Use City of Newton Details in lieu of the details submitted.
4. All utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) excavatable Type I-E; detail is available in the City of Newton Construction Standards Detail Book, which is on-line.
5. Profiles for the sewer main, service connections and force main are required. The minimum slope for a service connection is 2% and a maximum of 10%. All utilities within a 10' radius shall be clearly indicated in the profile.
6. Clarification of the final connection point for the sewer main needs to be shown.
7. Floor drains of the proposed parking garage and underground parking of the building must be connected to the sanitary sewer via MDC gas traps.
8. There must be a 10' horizontal separation of the proposed sewer main and water main, if this cannot be achieved than the sewer main shall be encased in concrete. If the sewer main crosses above the proposed water main then the sewer main shall be encased in concrete 10' on both sides of the crossing with Class B concrete.

Water:

1. The Director of Utilities requires that a master meter shall be installed in a heated utility room for this development. All water mains, appurtenances beyond the meter will be the sole responsibility of the developer and/or the association.
2. A gate valve is needed for the fire protection line to the proposed parking garage.

3. Fire flow testing is required for the proposed fire suppression system. The applicant must coordinate this test with both the Newton Fire Department and the Utilities Division; representatives of each department shall witness the testing, test results shall be submitted in a write report. Hydraulic calculation shall be submitted to the Newton Fire Department for approval.

General:

1. The applicant shall work with the City Arborist in regards to the Tree Preservation Ordinance.
2. Pedestrian curb cuts will be required at the driveway entrance; all curb cuts within the development shall conform to the most current Architectural Access Boards, and ADA requirements.
3. Any Blasting on site will require a permit from the Fire Department.
4. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans.*
5. Approval of this plan by the City of Newton Engineering Division implies that the plan meets the minimal design standards of the City of Newton. However, the Engineering Division makes no representations and assumes no responsibility for the design(s) in terms of suitability for the particular site conditions or of the functionability or performance of any items constructed in accordance with the design(s). The City of Newton assumes no liabilities for design assumption, error or omissions by the Engineer of Record.
6. All site work including trench restoration must being completed before a Certificate of Occupancy is issued. *This note must be incorporated onto the site plan.*

If you have any questions or concerns please feel free to contact me at 796-1023.



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

Tel: 617.854.1000 | Fax: 617.854.1091
Vp: 866.758.1435 | www.masshousing.com

July 23, 2015

Mr. Michael Argiros, Owner
Waban AMA Realty Ventures, LLC
1461 VFW Parkway
West Roxbury, MA 02132

Re: 1521 Beacon Street
Project Eligibility/Site Approval
MassHousing ID # 770

Dear Mr. Argiros:

This letter is in response to your application as "Applicant" for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B ("Chapter 40B"), 760 CMR 56.00 (the "Regulations") and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development ("DHCD") (the "Guidelines" and, collectively with Chapter 40B and the Regulations, the "Comprehensive Permit Rules"), under the New England Fund ("NEF") Program ("the Program") of the Federal Home Loan Bank of Boston ("FHLBB").

Waban AMA Realty Ventures, LLC has submitted an application to MassHousing pursuant to Chapter 40B. The Project will include 48 units of rental housing (10 affordable units @ 50% AMI) on 1.61 acres located at 1521 Beacon Street in Waban (Newton). The Project will include 12 townhouse units, and a 36-unit apartment building.

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility ("Site Approval") by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, "Housing Programs In Which Funding Is Provided By Other Than A State Agency."

MassHousing performed an on-site inspection of the Site, which local boards and officials were invited to attend, and has reviewed the pertinent information for the Project submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

Municipal Review and Comments

Pursuant to the Regulations, the Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. At the request of

the Municipality, this period was extended by 21 days to 51 days. James Freas, Acting Director of the Newton Planning and Development Department, submitted a letter (received by MassHousing on June 22, 2015) summarizing comments from municipal officials, staff and members of the public, and identifying specific concerns with the Project.

On June 18, 2015, MassHousing and the Municipality received revised site plans, showing modifications made by the Applicant in response to initial (largely verbal) feedback from the Municipality and area residents regarding the site layout and building design. While the number of units and overall unit mix remained the same, the height of the townhouse units on Karen Road was reduced from 47' to 32.5'. The Municipality did not request additional time to comment on the revisions, and it does not appear they were taken into consideration in the Municipal comment letter.

In summary, the Municipality expressed general support for the use of this Site for multi-family housing, while identifying specific concern with a variety of aesthetic, technical and programmatic aspects of the Project. They further identified additional information that the Developer should provide should a Project Eligibility Letter (PEL) be issued, and specific mitigation that would be required should the project be built.

- The Municipality expressed concern with the mass, scale and density of the project, and, in particular, with the bulk and height of the twelve townhouse units fronting on Karen Road. They noted further that the number of units per acre proposed for the Site (30 units/per acre) far exceeds density levels anywhere else in the Waban area, as does the floor area ratio (approximately 1.15 where .33 is the maximum allowed).
- The Municipality expressed concern about an excess of on-site surface parking, and the associated lack of open space and landscaping. They expressed particular concern about removal of existing mature vegetation along the southern (front) side of the property.
- The Municipality asked that the Applicant use Smart Growth principles and LEED standards in the design of the buildings.
- The Municipality expressed concern with the Project's potentially negative impacts for Project abutters, including increased levels of noise and light, and requested a detailed construction management plan aimed at minimizing dust, noise, parking and traffic impacts during construction.
- The Municipality expressed concern with potential traffic impacts, including increased volume on already congested area roadways, and further reductions in the level of service at area intersections. They identified restrictions in sight lines at area intersections, and the need for signal upgrades.

In addition to the comments prepared by Newton's Department of Planning and Development on behalf of the Municipality, MassHousing received and reviewed individual letters from the Newton Housing Partnership, Alderman Deborah J. Crossley, and the Waban Area Council. All

three of these letters expressed measured support for the Project while identifying thoughtful and specific concerns.

- The Newton Housing Partnership expressed support for the Project, but requested additional information about affordable unit pricing, and the Project design relative to the surrounding neighborhood context.
- Alderman Crossley reiterated concerns voiced by the City's Planning and Department Department relative to the Project's design and layout. She also emphasized the importance of adequate safety provisions for pedestrian and vehicular traffic in the area.
- The Waban Area Council also expressed concern about the size and scale of the project, citing visual and traffic impacts as particular concerns. They noted, in particular, a concern about the Project's lack of open space and landscaping.

Community Response

The Municipality provided MassHousing with copies of 202 emails and letters sent by area residents expressing a variety of opinions about the project. These included 16 letters of support noting Newton's relative lack of multi-family and affordable housing, and the community's obligation to provide a variety of housing options. The remainder of the letters expressed opposition to the project, though a fair number of these acknowledged the need for affordable housing in Newton, but expressed concerns with the proposed development ranging from its particular location to concerns about the building design. Concerns were also voiced about potential impacts to abutter safety and quality of life, increased traffic, visual impacts, and potential reductions in property value. The focus of specific comments can be summarized as follows:

- Concern about existing vehicular traffic congestion on Chestnut Street and fear that the Project would further reduce the level of service at surrounding intersections;
- Concern relative to pedestrian safety (particularly the safety of children) in light of the project's proximity to a heavily used public park;
- Concern regarding the aesthetics of the Project, including the lack of landscaping and green space, proposed building heights, the large amount of parking, and incongruity with neighborhood architecture;
- Several letters noted the historical significance of the existing church building, and protested its demolition;
- Concern about the number of units proposed for the Site, incompatible levels of density and overcrowding;
- Area residents expressed uneasiness with creation of rental housing in area of predominantly owner-occupied housing.

MassHousing Determination

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval. As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Developer may apply to the Zoning Board of Appeals of the Municipality for a comprehensive permit. At that time local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's site and design review, and in light of feedback received from the Municipality and members of the community, the following issues should be addressed in your application to the Newton Zoning Board of Appeals, and you should be prepared to explore them more fully in the public hearing process:

1. Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.
2. The Applicant should be prepared to provide sufficient data to assess potential traffic impacts on area roadways and intersections. In particular, the applicant should be prepared to address Municipal concerns relative to the level of service at the intersections of Montclair Road, Short Street and Beacon Street; Oak Vale Road and Chestnut Street; and Chestnut Street and Beacon Street.
3. The Applicant should be prepared to address Municipal concerns relative to on and off-site pedestrian safety, and to appropriately mitigate risks to pedestrian safety.
4. The Applicant should be prepared to address Municipal and abutter concerns relative to the size, scale and architectural style of the Project and its impact on the character of the surrounding neighborhood, and to fully describe proposed measures to address and mitigate these concerns.
5. In response to Municipal and abutter concerns relative to potentially negative visual and noise impacts, the Applicant should provide specific information about proposed mitigation measures including the preservation of existing vegetation and the introduction of new landscaping and structural and vegetative screening.

6. The Applicant should be prepared to address the Municipality's concerns relative to the site plans lack of usable open space depicted in the plan, and their desire for detailed landscape plan. They urged the Applicant to delay paving some of the proposed parking until need could be documented, and to preserve that space as open space.
7. Should the Project be built, the Applicant should provide a detailed construction management plan.
8. The Applicant should provide a detailed stormwater management plan to be reviewed by the Municipality to ensure proper drainage on the Site and the protection of abutting properties.
9. The Applicant should provide information relative to snow storage, mail delivery, trash pick-up and bike storage.

This Site Approval is expressly limited to the development of no more than 48 rental units under the terms of the Program, of which not less than 20% shall be restricted as affordable for low income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of NEF financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units, a reduction in the size of the Site, a change in tenure type or a substantial change to the overall Site Plan, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

This approval will be effective for a period of two years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing of the following: (1) the Applicant applies to the local ZBA for a Comprehensive Permit, (2) the ZBA issues a decision and (3) any appeals are filed.

Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.


Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBB, for which MassHousing serves as Subsidizing

1521 Beacon
MassHousing # 770
Project Eligibility Letter

Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and in order to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Katy Lacy at (617) 854-1098.

Sincerely,



Thomas R. Gleason
Executive Director

cc: Ms. Chrystal Kornegay, Undersecretary, DHCD
The Honorable Setti D. Warren
Mr. James Freas, Acting Director, Planning and Economic Development

Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency
Section (4) Findings and Determinations

1521 Beacon Street, Newton, MA, MH # 770

MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

(a) That the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);

The Project is eligible under the NEF housing subsidy program and at least 20% of the units will be available to households earning at or below 50% of the Area Median Income (AMI), adjusted for household size, as published by the U.S. Department of Housing and Urban Development ("HUD"). The most recent HUD income limits indicate that 50% of the current median income for a four-person household in Newton is \$49,250.

Assuming that utilities are included, proposed rent levels of \$862 for a studio, \$923 for a one bedroom, \$1108 for a two-bedroom, and \$1231 for a three bedroom unit reflect current gross affordable rent levels for the Boston-Cambridge-Quincy HMFA under the NEF Program.

A letter of interest to provide financing under the NEF Program was provided by the Northern Bank and Trust Company a member bank of the Federal Home Loan Bank of Boston.

(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses, and would directly address the local need for affordable housing.

The Site is currently zoned for residential development, though multi-family development is not permitted, and is served by water, sewer, electricity, telephone and cable. The proposed development is a transit oriented location, within 1500 feet from the Waban Green Line MBTA Station, and within walking distance to schools, retail, and recreational facilities.

MassHousing carefully reviewed the information provided by the City of Newton in their comment letter of June 22, 2015 describing previous municipal actions intended to provide affordable housing. Specific examples cited include the allocation of a significant amount of

CPA, CDBG and HOME funds for the development and preservation of affordable housing, including 30% of all CPA funds since 2008 (20% above the minimum requirement). They also noted that Newton has had inclusionary zoning in place since 1977, which has resulted in the creation of more than 250 affordable units (with 81 additional units in the pipeline). Newton does not have a DHCD Certified Housing Production Plan, though the City has recently embarked on a nine-month strategic planning process aimed at addressing affordable housing needs.

Despite previous efforts, however, the City acknowledged the need for additional affordable housing. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through December, 2014, Newton has 2515 Subsidized Housing Inventory (SHI) units (7.5 % of its housing inventory). An additional 720 units would be required for the Town to achieve the 10% threshold of 3235.

The need for additional affordable housing targeted for households earning less than 50% AMI is further supported by U.S. Census data from the 2008-2012 American Community Survey, which indicates that 13.08% of households in the Newton fall into the "very low income" category as defined by HUD.

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);

Relationship to Adjacent Building Typology (including building massing, site arrangement, and architectural details):

Project buildings appear to have been designed to fit into the surrounding residential context. The multi-unit apartment building reflects the style of many of Newton's older homes, featuring covered entrances and porches, projecting gables, wide gables, and horizontal groupings of multi-paned windows. Building detailing draws on arts and crafts influences, including a combination of clapboard-style siding and shingled accent panels, and generous roof overhangs supported by decorative brackets. While larger than surrounding single family homes, the fact that multi-family building replaces an existing church means that it reflects the current development pattern on this property. The southern façade of the building stands three stories tall, while the rear (north) façade features an additional fourth story over podium parking, thus reducing the visual impact at the front of the building on Short and Beacon streets.

The three townhouse clusters fronting on Karen Road similarly mirror the style of surrounding residential development, with covered entrances and porches with railings, wide gables, extended roof overhangs and horizontal window groupings. In the course of the Site Approval application period, abutters expressed concern that the initial design for the Townhouses was too tall (four stories and 47' in height) and would have been incompatible with other homes on Karen Road, some of which are 1-2 stories high. In response, the Applicant redesigned the townhouses as three-story, 32.5' structures, similar to other homes in the area.

Relationship to adjacent streets/Integration into existing development patterns

The Site Plan is laid out to fit into the context of the existing streetscape as well as possible, with the three, residentially-scaled townhouse clusters fronting on Karen Road (where there is currently a large, open parking lot), and the multi-family apartment building sited roughly on the Site that the church had occupied. Townhouses are placed at intervals similar to the rest of the street, though front setbacks are reduced in an effort to keep parking to the rear of the buildings. The initial plans showed the Townhouses as four-story structures, but were reduced from 47 to 32 feet in response to input from the community.

Density

The Project has an overall density of 30 units per acre. While the development will result in a clear increase in Floor Area Ratio (FAR), there will be almost no change in the amount of impervious surface given that much of the Site is currently occupied by a large (150 spaces) open parking lot.

Conceptual Site Plan

The Site Plan is relatively simple, and includes four buildings. A single, five-story apartment building containing 36 units above podium parking is located roughly where the Church was sited, fronting on Short/Beacon Street. Three, 3-story townhouses containing 3, 4 and 5 units each front on Karen Road. A two-way driveway bisects the Site and exits onto Karen Road.

Environmental Resources

Environmental resources were not a factor in the design of Site Plan. The Site is currently developed with a church and associated parking lot, and consists of between 65%-75% impervious surface. It appears that a certain amount of existing vegetation on the southern (Short Street) side of the Site will be preserved.

Topography

Topography was not a factor in the design of the Site Plan; the Site is relatively level, sloping very gently from Short Street to the south, towards Karen Road to the north.

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

The Applicant proposes the construction of 36 apartments and 12 townhomes to be financed under the NEF Program. There will be 38 market-rate units with proposed average rent levels of \$1,740 for the studios, \$2,380 for the one-bedroom units, \$3,555 for the two bedroom units, and \$4,800 for the three-bedroom units.

MassHousing's Appraisal and Marketing Division (A&M) reviewed comparable rental developments in the area and has noted that proposed market rents for the studio and one bedroom units and three-bedroom units are within the comparable range, but that rents for the two and three bedroom units fall above the mean rents of comparable developments. A&M noted the relative shortage of and demand for rental housing in Newton, pointing to an

occupancy rate of 98% for comparable developments in this area.

(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$4,000,000. Based on a proposed investment of \$3,887,716 in private equity, and land acquisition costs of \$4,200,000 the pro forma appears to be financially feasible and within the limitations on profits and distributions.

(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and

The Applicant must be organized as a Limited Dividend Organization prior to applying for Final Approval. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program.

(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.

The Site consists of a single parcel of land (Newton Assessor's Map 53034, Lot 0004). The Applicant controls the entire Site by virtue of a Deed recorded at the Southern Middlesex County Registry of deeds in Book 63197, Page 201.

Zoning Map 28 Austin St

*City of Newton,
Massachusetts*

Legend

Single Residence 2

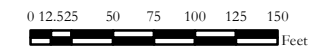
Public Use

ATTACHMENT E

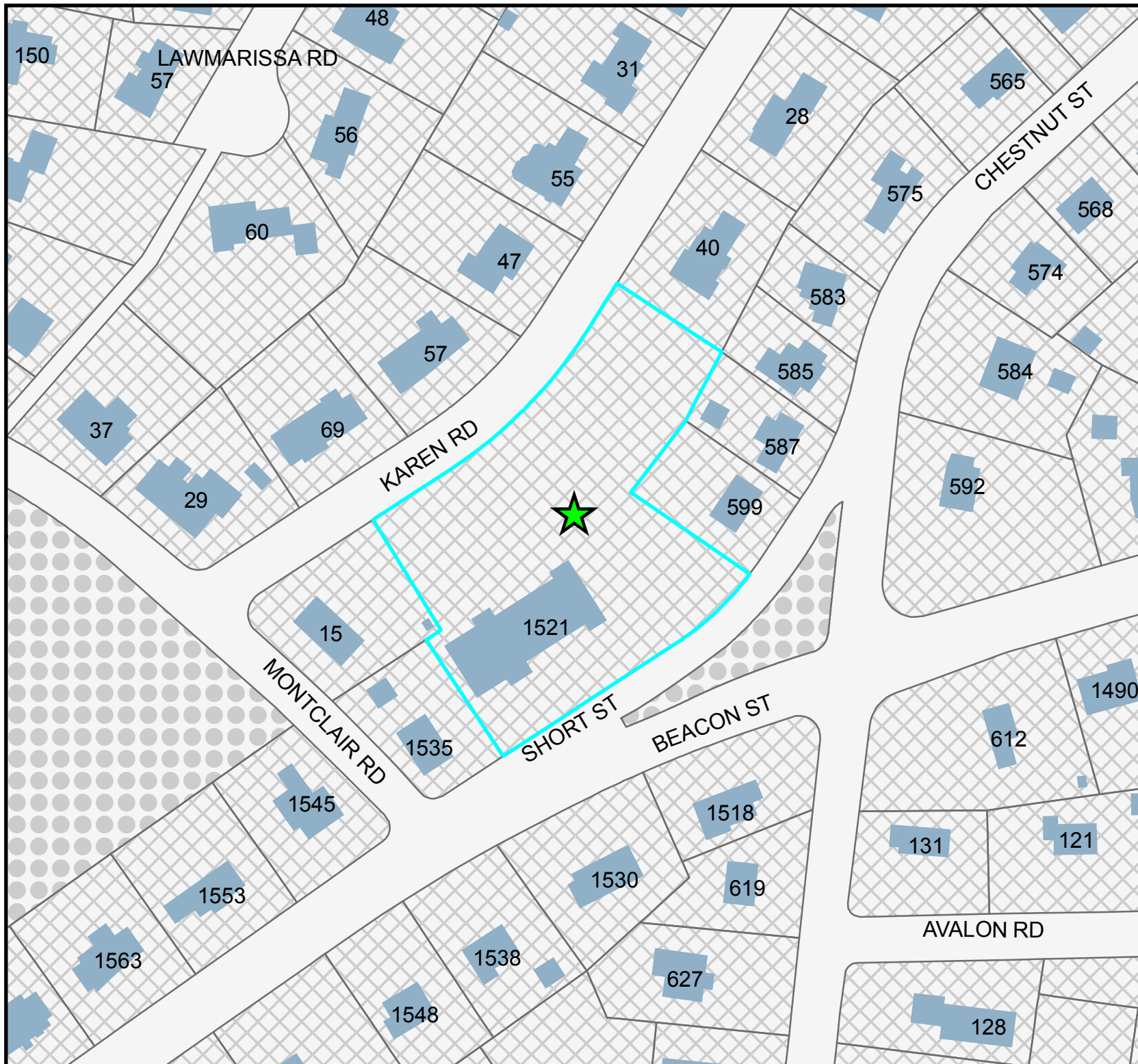


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield



Map Date: January 21, 2016



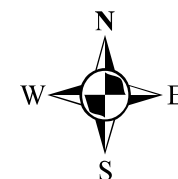
Land Use Map 28 Austin St

*City of Newton,
Massachusetts*

Legend

- Single Family Residential
- Commercial
- Open Space

ATTACHMENT F



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0 12.525 50 75 100 125 150
Feet

Map Date: January 21, 2016

